

**MINUTES
of the
FIRST MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**June 22, 2007
Room 311, State Capitol
Santa Fe**

The first meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order on June 22, 2007 at 1:10 p.m. in Room 311, State Capitol, by Representative Gail Chasey and Senator Mary Jane M. Garcia, co-chairs.

Present

Rep. Gail Chasey, Co-Chair
Sen. Mary Jane M. Garcia, Co-Chair
Sen. John T.L. Grubescic
Rep. Danice Picraux
Sen. John C. Ryan
Rep. Gloria C. Vaughn

Absent

Advisory Members

Rep. Ray Begaye
Sen. Joseph J. Carraro
Sen. Dede Feldman

Sen. Rod Adair
Sen. Linda M. Lopez
Sen. James G. Taylor
Rep. Teresa A. Zanetti

Staff

Roxanne Knight
Larry Matlock

Friday, June 22

Representative Chasey welcomed all attendees to the organizational meeting of the TSROC and asked the members of the committee and support staff to introduce themselves. Additionally, the members of the audience were given an opportunity to introduce themselves. Ms. Knight noted that any drafting needed for the committee would be done by Cleo Griffith, and she noted that Mr. Matlock was temporarily assisting the committee until the student intern arrives later in the summer.

2007 Committee-Sponsored Legislation

Ms. Knight began her presentation with a brief review of the legislation supported by TSROC and adopted during the 2007 legislative session. What is now called the Dee Johnson Clean Indoor Air Act was adopted and became effective June 15, 2007. Essentially, this bill

establishes minimum standards for the statewide regulation of tobacco smoking. Although smoking is permitted in certain defined areas, including private residences, in general the law prohibits smoking in the workplace and other indoor public places. Representative Chasey noted that she was in attendance at the press conference held in Albuquerque to announce the provisions of the new law.

The Cigarette Tax Act was amended to redefine "cigarette" and to broaden the taxing authority for certain substances that are likely to be offered to or purchased by consumers as a cigarette. The tax rate per stick increased from 4.55 cents to 9.1 cents per stick in packs of 10 and to 18.2 cents per stick in packs of five. The current tax rate per stick for cigarettes in packs of 20, and now 25, is 4.55 cents.

The committee was given the fiscal year 2008 final funding recommendations and appropriations approved from the Tobacco Settlement Program Fund (see attached PDF of recommendations). Although the legislature did not appropriate tobacco settlement program funds for early detection of lung cancer in veterans, a general fund special appropriation for \$350,000 was included in HB 2 for the Veterans' Services Department to contract for those services. Senator Ryan noted that he sponsored that funding request, and although it was not at the level recommended by TSROC, he was pleased that the department received funding. Ms. Knight noted that the shaded items on the handout indicated where an appropriation was adopted at a level different from the TSROC recommendation. She explained that differences were due primarily to changes in the revenue projections and the Legislative Finance Committee (LFC) needing to keep the expenditures within the revenue limitations. Representative Chasey noted that Medicaid expansion had been an area that was impacted when funding flexibility was possible.

Historical Funding Information

A draft spreadsheet containing historical funding levels from tobacco settlement funds, including those redirected to the general fund during 2003-2007, was reviewed by staff. Ms. Knight advised the members that she will be adding more revenue information to this sheet, so that all the historical financial information on the subject will be in one place. She suggested that historical funding might be a place to start during the interim when reviewing long-term funding and how those dollars have affected various state smoking and smoking-cessation statistics, as well as health care costs, etc. She suggested that trend data be provided by the entities making presentations at the interim meetings. Other items she mentioned for consideration during the program evaluation include matching funds or other revenue sources that are coupled with the tobacco revenues for program funding, performance data and projections of program impacts, if funding remained the same or was increased or decreased.

Members commented that they would like to see how these investments have "paid off". Also, they suggested looking at what has happened in states like Florida and Massachusetts, where the earmarking of tobacco funds has been eliminated.

Representative Begaye expressed some concern about the Indian Affairs Department (IAD) continuing to receive \$500,000 for tobacco cessation and prevention programs, suggesting that perhaps the funds should be appropriated to the Department of Health (DOH) instead. Representative Vaughn expressed concern about the sale of cheaper cigarettes on the reservations and how that affects the Tobacco Use Prevention and Control (TUPAC) programs and smoking in general. One suggestion was to require the TUPAC funding at IAD to be used for targeting specific areas, similar to a model done in Arizona. Representative Begaye noted that the reservations have several issues related to smoking, liquor sales and cockfighting.

Senator Carraro and Representative Chasey discussed the recently released Food and Drug Administration (FDA) report about reducing the levels of nicotine in cigarettes. Representative Chasey suggested that the committee look at "point-of-sale advertising". Senator Carraro asked what needs to be done to combat the tobacco initiatives such as the point-of-sale and media advertising. The committee would like to see a list of previous tobacco legislation and how it fared, as well as a list of legislative initiatives adopted by other states that might be good ideas for New Mexico.

Joint Rule 10-1 was reviewed by staff as a reminder for interim bill drafting. The rule provides that:

1. if an interim committee has endorsed a bill, resolution or memorial, the LCS shall draft and prepare the bill resolution or memorial for introduction in ONLY ONE HOUSE; and
2. the same requirement apply to the drafting of bills, resolutions and memorials **requested by** the governor or the various departments, institutions and agencies of the state.

There was committee discussion about the impact of the new joint rule. Members noted that both legislative bodies will have greater responsibility and may prevent some committees from "holding legislation hostage" while waiting for a duplicate bill to pass the other house.

The committee heard a brief listing of the information being provided to them in their files for the day's meeting. It included:

- recent articles about smoking-cessation initiatives and tobacco advertising;
- a March 2007 update to the cigarette excise tax rates nationally, which reflects New Mexico as being twenty-eighth in the rankings from the highest state excise tax rate;
- a February 2007 update to the states' allocations of payments from the tobacco companies and covering fiscal years 2000-2005. The most recent sheet shows that the 2005 allocations were 30 percent to health, 29 percent to budget shortfalls and 3.5 percent to tobacco control and a host of other things. (Representative Chasey indicated that the percentage allocations reflected those preferred by the tobacco companies in the settlement agreements.);
- a June 5, 2007 report from the Mellman Group to the Campaign for Tobacco-Free Kids, in which the data reflect that New Mexico is ranked twenty-sixth. New Jersey

- has the highest rate with \$2.58 per pack in state excise taxes. New Mexico now has the median tax rate of 91 cents per pack of 20;
- a summary of tobacco-related data about New Mexico. (Representative Chasey suggested that TUPAC at the DOH can provide data about New Mexico, along with the American Lung Association, the American Cancer Society and the Campaign for Tobacco-Free Kids. She indicated that there are trend data to show where New Mexico would be without the tobacco money.); and
 - there was some question about an article in the newspaper referencing an additional \$2.8 million in tobacco revenue for fiscal year 2007. New Mexico has now received \$38.9 million, including the additional funds, which exceeds the revenue projections by \$2.7 million.

2007 Interim Work Plan and Meeting Schedule Development

The proposed dates for the upcoming TSROC meetings were reviewed by committee members. Ms. Knight noted that the committee would only have two more meetings per a Legislative Council (LC) directive, and it was suggested that legislation be discussed as needed at both meetings.

The members reviewed the proposed work plan. Representative Chasey asked for a motion to adopt. Senator Garcia made the motion, which was seconded by Representative Chasey. There being no opposition, the motion was adopted unanimously by the committee.

Representative Chasey discussed the possibility of having the August meeting in Albuquerque, and a University of New Mexico (UNM) representative suggested that the meeting could be held at the UNM Health Sciences Center and that sufficient parking would be made available. It was determined that the budget would be less if the meeting were in Albuquerque versus Santa Fe. Staff indicated that the change be submitted with the work plan for LC approval.

Committee Discussion

Representative Begaye expressed some concern about the ability of IAD to handle the \$500,000 appropriation for tobacco cessation and prevention programs, and he discussed whether the appropriation might need to be shifted back to DOH. He was concerned that the appropriation might be burdensome for IAD to administer. Representative Chasey said the committee would bring IAD representatives before the committee during one of the hearings. Representative Begaye expressed that the request for proposals process took four to six months last fiscal year for IAD to complete. Representative Chasey noted that it was not the intent of the committee to have this problem with the funding.

Representative Vaughn noted that she is a member of the Indian Affairs Committee, in which issues had been raised about the selling of cheaper cigarettes on the reservations and the "Catch-22" of having cheaper cigarettes available while trying to implement tobacco cessation and prevention programs. Discussion followed about the tribes keeping part of the tax that is

collected on cigarettes. Representative Begaye noted that there are concerns about the potential impact on the reservations if restrictive smoking provisions are adopted.

Arizona was mentioned as a model for addressing smoking issues on the reservations, but, generally, the committee members indicated that the issue most likely should be raised in the Indian Affairs Committee. Also, it was noted that there are tribal leaders who are anti-smoking advocates.

There was discussion among members and some audience members about future revenues. It was noted that revenue projections will be generated in July.

Comments were accepted from the audience. Carlos Romero from UNM talked about tobacco taxes and the possibility that the federal government might raise tobacco taxes to shore up Medicaid. UNM wants Congress to raise the taxes.

Senator Carraro expressed concern about limiting the amount of nicotine in tobacco products, and he asked that the committee join together in supporting him, as well as in seeking UNM support. Senator Carraro noted that the American Cancer Society advised him on his legislation relating to this. General comments referenced the hundreds of millions of dollars that the tobacco companies spend on advertising. Nathan Bush noted the DOH media program has less than \$2 million, while tobacco companies are spending \$55 million to \$70 million.

Having no further business, the committee adjourned at 2:06 p.m.